

AMENDED IN ASSEMBLY APRIL 30, 2014

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1999

Introduced by Assembly Member Atkins

February 20, 2014

An act to add and repeal Sections 38.9, 17053.86, and 23686 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1999, as amended, Atkins. Personal income and corporation ~~tax~~ *taxes*: credits: rehabilitation.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2015, and before January 1, ~~2026~~ *2021*, in an amount, determined pursuant to a specified section of the Internal Revenue Code, that is paid or incurred during the taxable year for rehabilitation of certified historic structures. This bill would provide for a 25% credit, or 30% credit if the structure meets specified criteria, for rehabilitation of a certified historic structure within the state *to be allocated by the Governor's Office of Business and Economic Development in an aggregate amount of \$100,000,000 per calendar year, as specified. This bill would require the Legislative Analyst to, on an annual basis, collaborate with the Governor's Office of Business and Economic Development to review the tax credit, as provided.*

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. (a) The Legislature finds and declares that*
2 *California's historic buildings are an important asset to*
3 *communities throughout the state, and that the preservation and*
4 *restoration of these buildings is important to enhancing civic pride,*
5 *increasing tourism, and maintaining vibrant neighborhoods.*

6 *(b) The Legislature further finds and declares all of the*
7 *following:*

8 *(1) The federal Historic Preservation Tax Incentives program,*
9 *currently available to California's income producing historic*
10 *properties, has generated nearly \$1.5 billion in investment during*
11 *the last 10 years.*

12 *(2) While 35 states have similar state tax credits or incentives*
13 *for historic preservation, no such incentive exists in California.*

14 *(3) States that have partnered a state incentive with the federal*
15 *Historic Preservation Tax Incentive have reaped significant*
16 *economic development benefits, including construction and*
17 *building industry job creation, increased state tax revenues through*
18 *increased employment and wages, increased local property tax*
19 *revenues through increased property values, and increased local*
20 *tax revenues through sales taxes and heritage tourism.*

21 *(4) Over the last 10 years, California has had 129 projects*
22 *qualify for the federal Historic Preservation Tax Incentives*
23 *program. These projects have been located in 20 different counties.*

24 *(5) As California communities continue to adjust and adapt to*
25 *the dissolution of redevelopment agencies, proven tools are still*
26 *needed to incentivize economic development and revitalize*
27 *economically distressed areas.*

28 *SEC. 2. Section 38.9 is added to the Revenue and Taxation*
29 *Code, to read:*

30 *38.9. (a) The Legislative Analyst shall, on an annual basis*
31 *beginning January 1, 2016, collaborate with the Governor's Office*
32 *of Business and Economic Development to review the effectiveness*
33 *of the tax credits allowed by Sections 17053.86 and 23686. The*
34 *review shall include, but is not limited to, an analysis of the demand*
35 *for the tax credit, the types and uses of projects receiving the tax*

1 *credit, the jobs created by the use of the tax credits, and the*
2 *economic impact of the tax credits.*

3 *(b) This section shall remain in effect only until January 1, 2022,*
4 *and as of that date is repealed, unless a later enacted statute, that*
5 *is enacted before January 1, 2022, deletes or extends that date.*

6 **SECTION 1.**

7 **SEC. 3.** Section 17053.86 is added to the Revenue and Taxation
8 Code, to read:

9 17053.86. For each taxable year beginning on or after January
10 1, 2015, and before January 1, ~~2026~~ 2021, there shall be allowed
11 as a credit against the “net tax,” as defined in Section 17039, an
12 amount determined in accordance with Section 47 of the Internal
13 Revenue Code, except as follows:

14 (a) (1) In lieu of the percentages specified in Section 47(a) of
15 the Internal Revenue Code, except as provided in paragraph (2),
16 the applicable percentage shall be 25 percent of the qualified
17 rehabilitation expenditures with respect to a certified historic
18 structure.

19 (2) The applicable percentage shall be 30 percent of the qualified
20 rehabilitation expenditures with respect to a certified historic
21 structure if that certified historic structure meets one of the
22 following criteria:

23 (A) The structure is located on federal, state, or local surplus
24 property.

25 ~~(B) The rehabilitated structure will contain a majority of~~
26 ~~low-income housing units.~~

27 ~~(C) The structure is located in an economically distressed area.~~

28 ~~(D) The structure is located in a Base Realignment and Closure~~
29 ~~Zone.~~

30 ~~(E) The structure is located in a Transit-Oriented Development~~
31 ~~Area.~~

32 (B) *The rehabilitated structure includes affordable housing for*
33 *lower-income households, as defined by Section 50079.5 of the*
34 *Health and Safety Code.*

35 (C) *The structure is located in a designated census tract, as*
36 *defined in paragraph (7) of subdivision (b) of Section 17053.73.*

37 (D) *The structure is a part of a military base reuse authority*
38 *established pursuant to Title 7.86 (commencing with Section*
39 *67800) of the Government Code.*

1 (E) *The structure is a transit-oriented development that is a*
2 *higher-density, mixed-use development within a walking distance*
3 *of one-half mile of a transit station.*

4 (b) For purposes of this section, a certified historic structure
5 means a structure in this state that appears on either the National
6 Register of Historic Places or the California Register of Historical
7 Resources.

8 (c) A deduction shall not be allowed under this part for any
9 expense for which a credit is allowed by this section.

10 (d) If a credit is allowed under this section with respect to any
11 property, the basis of that property shall be reduced by the amount
12 of the credit allowed.

13 (e) In the case where the credit allowed by this section exceeds
14 the “net tax,” the excess may be carried over to reduce the “net
15 tax” in the following year, and the seven succeeding years if
16 necessary, until the credit is exhausted.

17 (f) *For purposes of this section, the Governor’s Office of*
18 *Business and Economic Development shall do the following:*

19 (1) (A) *On and after January 1, 2015, and before January 1,*
20 *2021, allocate tax credits to applicants.*

21 (B) *The credit shall be allocated to the partners of a partnership*
22 *owning the project in accordance with the partnership agreement,*
23 *regardless of how the federal historic rehabilitation tax credit with*
24 *respect to the project is allocated to the partners, or whether the*
25 *allocation of the credit under the terms of the agreement has*
26 *substantial economic effect, within the meaning of Section 704(b)*
27 *of the Internal Revenue Code.*

28 (2) *Establish a procedure for applicants to file with the*
29 *Governor’s Office of Business and Economic Development a*
30 *written application, on a form jointly prescribed by that office and*
31 *the Office of Historic Preservation for the allocation of the tax*
32 *credit.*

33 (3) *Establish criteria consistent with the requirements of this*
34 *section, for allocating tax credits. Criteria shall include, but are*
35 *not limited to, the following:*

36 (A) *The number of jobs created by the rehabilitation project,*
37 *both during and after the rehabilitation of the structure.*

38 (B) *The expected increase in state and local tax revenues derived*
39 *from the rehabilitation project, including those from increased*
40 *wages and property taxes.*

1 (C) Any additional incentives or contributions included in the
2 rehabilitation project from federal, state, or local governments.

3 (4) Determine and designate, in consultation with the Office of
4 Historic Preservation, applicants that meet the requirements of
5 this section to ensure that the rehabilitation project upholds
6 historical values in terms of architectural and aesthetic standards.

7 (5) Process and approve, or reject, all applications.

8 (6) Subject to the annual cap established as provided in
9 subdivision (g), allocate an aggregate amount of credits under
10 this section and Section 17053.86, and allocate any carryover of
11 unallocated credits from prior years.

12 (7) Certify tax credits allocated to taxpayers.

13 (g) The aggregate amount of credits that may be allocated in
14 any calendar year pursuant to this section and Section 17053.86
15 shall be an amount equal to the sum of all of the following:

16 (1) One hundred million dollars (\$100,000,000) in tax credits
17 for the 2015 calendar year and each calendar year thereafter,
18 through and including the 2020 calendar year.

19 (2) The unused allocation tax credit amount, if any, for the
20 preceding calendar year.

21 ~~(f)~~

22 (h) This section shall remain in effect only until December 1,
23 2026 2021, and as of that date is repealed.

24 ~~SEC. 2.~~

25 SEC. 4. Section 23686 is added to the Revenue and Taxation
26 Code, to read:

27 23686. For each taxable year beginning on or after January 1,
28 2015, and before January 1, 2026 2021, there shall be allowed as
29 a credit against the "tax," as defined in Section 23036, an amount
30 determined in accordance with Section 47 of the Internal Revenue
31 Code, except as follows:

32 (a) (1) In lieu of the percentages specified in Section 47(a) of
33 the Internal Revenue Code, except as provided in paragraph (2),
34 the applicable percentage shall be 25 percent of the qualified
35 rehabilitation expenditures with respect to a certified historic
36 structure.

37 (2) The applicable percentage shall be 30 percent of the qualified
38 rehabilitation expenditures with respect to a certified historic
39 structure if that historic structure meets one of the following
40 criteria:

1 (A) The structure is located on federal, state, or local surplus
2 property.

3 ~~(B) The rehabilitated structure will contain a majority of~~
4 ~~low-income housing units.~~

5 ~~(C) The structure is located in an economically distressed area.~~

6 ~~(D) The structure is located in a Base Realignment and Closure~~
7 ~~Zone.~~

8 ~~(E) The structure is located in a Transit-Oriented Development~~
9 ~~Area.~~

10 *(B) The rehabilitated structure includes affordable housing for*
11 *lower-income households, as defined by Section 50079.5 of the*
12 *Health and Safety Code.*

13 *(C) The structure is located in a designated census tract, as*
14 *defined in paragraph (7) of subdivision (b) of Section 17053.73.*

15 *(D) The structure is a part of a military base reuse authority*
16 *established pursuant to Title 7.86 (commencing with Section*
17 *67800) of the Government Code.*

18 *(E) The structure is a transit-oriented development that is a*
19 *higher-density, mixed-use development within a walking distance*
20 *of one-half mile of a transit station.*

21 (b) For purposes of this section, a certified historic structure
22 means a structure in this state that appears on either the National
23 Register of Historic Places or the California Register of Historical
24 Resources.

25 (c) A deduction shall not be allowed under this part for any cost
26 for which a credit is allowed by this section.

27 (d) If a credit is allowed under this section with respect to any
28 property, the basis of that property shall be reduced by the amount
29 of the credit allowed.

30 (e) In the case where the credit allowed by this section exceeds
31 the “tax,” the excess may be carried over to reduce the “tax” in
32 the following year, and the seven succeeding years if necessary,
33 until the credit is exhausted.

34 *(f) For purposes of this section, the Governor’s Office of*
35 *Business and Economic Development shall do the following:*

36 *(1) (A) On and after January 1, 2015, and before January 1,*
37 *2021, allocate tax credits to applicants.*

38 *(B) The credit shall be allocated to the partners of a partnership*
39 *owning the project in accordance with the partnership agreement,*
40 *regardless of how the federal historic rehabilitation tax credit with*

1 *respect to the project is allocated to the partners, or whether the*
2 *allocation of the credit under the terms of the agreement has*
3 *substantial economic effect, within the meaning of Section 704(b)*
4 *of the Internal Revenue Code.*

5 *(2) Establish a procedure for applicants to file with the*
6 *Governor's Office of Business and Economic Development a*
7 *written application, on a form jointly prescribed by that office and*
8 *the Office of Historic Preservation for the allocation of the tax*
9 *credit.*

10 *(3) Establish criteria consistent with the requirements of this*
11 *section, for allocating tax credits. Criteria shall include, but are*
12 *not limited to, the following:*

13 *(A) The number of jobs created by the rehabilitation project,*
14 *both during and after the rehabilitation of the structure.*

15 *(B) The expected increase in state and local tax revenues derived*
16 *from the rehabilitation project, including those from increased*
17 *wages and property taxes.*

18 *(C) Any additional incentives or contributions included in the*
19 *rehabilitation project from federal, state, or local governments.*

20 *(4) Determine and designate, in consultation with the Office of*
21 *Historic Preservation, applicants that meet the requirements of*
22 *this section to ensure that the rehabilitation project upholds*
23 *historical values in terms of architectural and aesthetic standards.*

24 *(5) Process and approve, or reject, all applications.*

25 *(6) Subject to the annual cap established as provided in*
26 *subdivision (g), allocate an aggregate amount of credits under*
27 *this section and Section 17053.86, and allocate any carryover of*
28 *unallocated credits from prior years.*

29 *(7) Certify tax credits allocated to taxpayers.*

30 *(g) The aggregate amount of credits that may be allocated in*
31 *any calendar year pursuant to this section and Section 17053.86*
32 *shall be an amount equal to the sum of all of the following:*

33 *(1) One hundred million dollars (\$100,000,000) in tax credits*
34 *for the 2015 calendar year and each calendar year thereafter,*
35 *through and including the 2020 calendar year.*

36 *(2) The unused allocation tax credit amount, if any, for the*
37 *preceding calendar year.*

38 ~~*(f)*~~

39 *(h) This section shall remain in effect only until December 1,*
40 *2026 2021, and as of that date is repealed.*

1 ~~SEC. 3.~~

2 *SEC. 5.* This act provides for a tax levy within the meaning of

3 Article IV of the Constitution and shall go into immediate effect.

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